

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

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In re: :
:
THE FINANCIAL OVERSIGHT AND : PROMESA
MANAGEMENT BOARD FOR PUERTO RICO, : Title III
:
as representative of : Case No. 17-BK-3283 (LTS)
:
THE COMMONWEALTH OF PUERTO RICO *et al.*, : (Jointly Administered)
:
Debtors.¹ :
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In re: :
:
THE FINANCIAL OVERSIGHT AND : PROMESA
MANAGEMENT BOARD FOR PUERTO RICO, : Title III
:
as representative of : Case No. 17-BK-4780 (LTS)
:
PUERTO RICO ELECTRIC POWER AUTHORITY : **This filing relates only to**
: **Case No. 17-BK-4780 (LTS)**
:
Debtor. :
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**URGENT MOTION TO FILE UNDER SEAL OFFICIAL COMMITTEE OF
UNSECURED CREDITORS' MOTION *IN LIMINE* TO STRIKE AND EXCLUDE
IMPROPER LAY OPINION TESTIMONY OF FREDERIC CHAPADOS REGARDING
ALLEGED EFFECT OF 9019 SETTLEMENT ON PREPA TRANSFORMATION**

¹ The Debtors in these Title III cases, along with each Debtor's respective Title III case number and the last four (4) digits of each Debtor's federal tax identification number, as applicable, are the (i) Commonwealth of Puerto Rico (Bankruptcy Case No. 17-BK-3283 (LTS)) (Last Four Digits of Federal Tax ID: 3481); (ii) Puerto Rico Sales Tax Financing Corporation ("COFINA") (Bankruptcy Case No. 17-BK-3284 (LTS)) (Last Four Digits of Federal Tax ID: 8474); (iii) Puerto Rico Highways and Transportation Authority ("HTA") (Bankruptcy Case No. 17-BK-3567 (LTS)) (Last Four Digits of Federal Tax ID: 3808); (iv) Employees Retirement System of the Government of the Commonwealth of Puerto Rico ("ERS") (Bankruptcy Case No. 17-BK-3566 (LTS)) (Last Four Digits of Federal Tax ID: 9686); and (v) Puerto Rico Electric Power Authority ("PREPA") (Bankruptcy Case No. 17-BK-4780 (LTS)) (Last Four Digits of Federal Tax ID: 3747) (Title III case numbers are listed as Bankruptcy Case numbers due to software limitations).

To the Honorable United States District Judith Gail Dein:

The Official Committee of Unsecured Creditors (the “Committee”) submits this *Urgent Motion to File Under Seal Official Committee of Unsecured Creditors’ Motion in Limine to Strike and Exclude Improper Lay Opinion Testimony of Frederic Chapados Regarding Alleged Effect of 9019 Settlement on PREPA Transformation* (the “Motion to Seal”), and hereby states as follows:

RELIEF REQUESTED

1. The Committee has already filed a public, partially-redacted version of its *Official Committee of Unsecured Creditors’ Motion in Limine to Strike and Exclude Improper Lay Opinion Testimony of Frederic Chapados Regarding Alleged Effect of 9019 Settlement on PREPA Transformation* [Case No. 17-3283, Dkt. No. 9258; Case No. 17-4780, Dkt. No. 1752] (the “Motion in Limine”). This Motion to Seal seeks the Court’s permission to file the full, unredacted version of the Motion *in Limine* under seal to prevent the public disclosure of deposition testimony by Frederic Chapados, an investment banker at Citigroup Global Markets Inc. (“Citi”) and advisor to the Government Parties, that contains the designation of “Professionals’ Eyes Only” pursuant to the *Stipulation and Order in Connection With Discovery Regarding the Joint Motion of Puerto Rico Electric Power Authority and AAFAF Pursuant to Bankruptcy Code Sections 362, 502, 922, and 928, and Bankruptcy Rules 3012(A)(I) and 9019 for Order Approving Settlements Embodied in the Restructuring Support Agreement and Tolling Certain Limitations Periods* [Dkt. No. 1322] (the “Protective Order”).

JURISDICTION AND VENUE

2. The United States District Court for the District of Puerto Rico has subject matter jurisdiction over this matter pursuant to section 306(a) of PROMESA. Venue is proper pursuant to section 307(a) of PROMESA.

3. The statutory basis for the relief requested herein is found in sections 105(a) of the Bankruptcy Code and Bankruptcy Rule 9018, made applicable to the Title III cases by sections 301(a) and 310 of PROMESA, and Local Rule 9018-1 of the Local Bankruptcy Rules for the United States Bankruptcy Court for the District of Puerto Rico (the “Local Rules”).

BASIS FOR RELIEF REQUESTED

4. On November 19, 2019, the Committee filed a public, partially-redacted version of the Motion *in Limine*. In its Motion *in Limine*, the Committee cites deposition testimony by Frederic Chapados, which has been designated “Professionals’ Eyes Only” under the terms of the Protective Order.

5. The Committee does not necessarily agree that the testimony warrants a confidential designation or otherwise meets the requirements for being filed under seal with this Court. Nevertheless, pursuant to the Protective Order, the Committee does not have the ability to unilaterally remove the confidentiality designations that other parties have placed upon deposition testimony. The Committee therefore files this motion to comply with its obligations under the Protective Order and requests that the Court maintain the confidentiality of the cited testimony until such time as (i) other parties agree to remove the confidential designations from the testimony, or (ii) the Court orders that such designations be removed. If at any point the Court orders that the full, unredacted version of the Motion *in Limine* be filed on the public docket, the Committee will promptly do so.

6. Counsel for the Committee has informed counsel for Citi of the relief being sought in this Motion to Seal and has requested that counsel for Citi inform counsel for the Committee whether they have any opposition to this Motion to Seal. Counsel for the Committee further provided counsel for Citi unredacted copies of the testimony that the Committee has attached to its Motion *in Limine*, and asked whether the testimony needed to be kept confidential

or whether such designations could be removed, thus obviating the need for sealing. Counsel for Citi informed counsel for the Committee that it communicated the Committee's request to counsel for the Oversight Board. Counsel for Citi has informed counsel for the Committee that neither Citi nor the Oversight Board is able to agree to waive confidentiality at this time. Counsel for Citi has informed the Committee that neither Citi nor the Oversight Board has an objection to the Motion to Seal.

NOTICE

7. Notice of this Motion to Seal has been provided to the following entities, or their counsel, if known: (i) the U.S. Trustee; (ii) the Office of the United State Attorney for the District of Puerto Rico; (iii) the Oversight Board; (iv) the Puerto Rico Fiscal Agency and Financial Advisory Authority; (v) the Official Committee of Retired Employees of the Commonwealth of Puerto Rico; (vi) the insurers of the bonds issued or guaranteed by the Debtors; (vii) counsel to certain ad hoc groups of holders of bonds issued or guaranteed by the Debtors; (viii) Citigroup Global Markets, Inc.; (ix) Filsinger Energy Partners, (ix) Ankura; and (x) all parties that have filed a notice of appearance in the above-captioned Title III cases.

CERTIFICATION

8. Pursuant to Local Rule 9013-1 and paragraph I.H of the Tenth Amended Case Management Procedures [Case No. 17-3283, Dkt. No. 8027-1], the Committee hereby certifies that it has (a) carefully examined the matter and concluded that there is a true need for an urgent hearing; (b) not created the urgency through a lack of due diligence; (c) made a bona fide effort to resolve the matter without a hearing; (d) made reasonable, good faith communications in an effort to resolve or narrow the issues being brought to the court; and (e) conferred with the parties, who do not oppose the relief requested herein.

CONCLUSION

9. For the reasons stated above, the Committee requests that the Court grant the Motion to Seal and permit the filing of the full, unredacted version of the Motion *in Limine* under seal, restricting access to counsel for the Committee and the parties entitled to receive materials designated “Professionals’ Eyes Only” under the terms of the Protective Order.

WHEREFORE, the Committee respectfully requests that this Court enter an order, substantially in the form attached hereto as **Exhibit A**, granting the relief requested herein, and granting the Committee such other relief as this Court deems just and proper.

Dated: November 19, 2019

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